IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.55 OF 2006
IN
COMPANY PETITION NO.977 OF 2003

M/s.Aquarius Pvt.Ltd. Appellants
vs.
M/s.Amit Ship Management Pvt.Ltd. Respondents

Mr.Jayendra Khairnar i/b.Mr.M.Janardhanan for the appellants.

**CORAM : R.M. LODHA &**
**ANOOP V. MOHTA, JJ**.

**DATED : 6th February 2006**

**P.C.**

Heard.

2. Indisputably the arbitral award dated 10th October 2001 passed in favour of the appellant against the respondent-company is under challenge in the proceedings under Section 34 of the Arbitration and Conciliation Act, 1996. It is true that the application made by the respondent-company for stay of the arbitral award pending section 34 application has been rejected but the fact of the matter is that the arbitral award dated 10th October 2001 has not attained finality as it is subject matter of challenge in the proceedings under Section 34. It would, thus, be seen that the award dated 10th October 2001 is not enforceable and in view thereof, if

the learned Company Judge dismissed the Company Petition, the said order cannot be faulted.

3. The appeal is dismissed in limine.

(R. M. LODHA, J.)

(ANOOP V. MOHTA, J.)